

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF WASHINGTON**

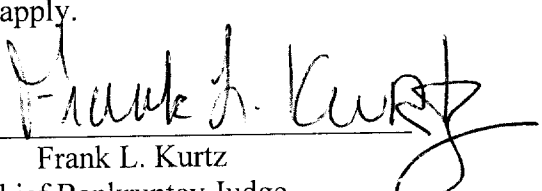
In re:	)	
	)	GENERAL ORDER
AMENDMENTS TO LOCAL	)	
BANKRUPTCY RULES 1006-1,	)	No. 11-01
1017-3, 2082-1, 3001-1, 3002-1,	)	
4001-1, 4001-3, 5005-3, and 9073-1	)	
	)	

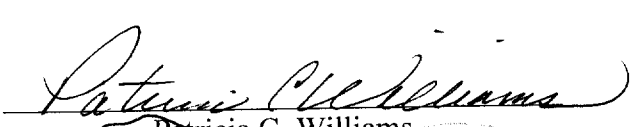
Pursuant to the General Order of the United States District Court for the Eastern District of Washington dated March 6, 1996, FRBP 8018 and 9029, FRCP 83, and 28 U.S.C. §2071, the following local rules are amended as set out in the attachments hereto:

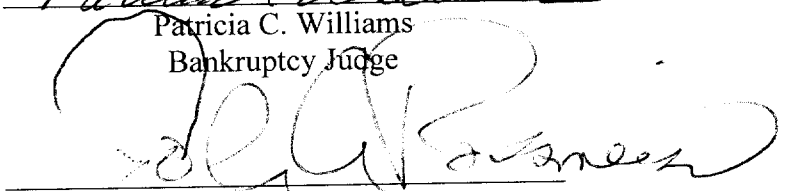
1. LBR 1006-1 – Waiver of Filing Fee
2. LBR 1017-3 – Conversion or Dismissal of Chapter 11 Cases
3. LBR 2082-1 – Chapter 12 - General
4. LBR 3001-1 – Claims & Equity Security Interests - General
5. LBR 3002-1 – Notice of Payment Changes
6. LBR 4001-1 – Automatic Stay
7. LBR 4001-3 – Relief from Codebtor Stay
8. LBR 5005-3 – Electronic Filing
9. LBR 9073-1 – Hearings

The amendments to the aforementioned local bankruptcy rules shall be effective August 1, 2011, except LBR 3001-1 and LBR 3002-1, which shall be effective December 1, 2011. The amendments shall govern all pending matters, except to the extent, in the opinion of the Court, application of the change would not be feasible or would work an injustice, in which event the procedure set forth in the former shall apply.

DATED: JULY 29, 2011

  
\_\_\_\_\_  
Frank L. Kurtz  
Chief Bankruptcy Judge

  
\_\_\_\_\_  
Patricia C. Williams  
Bankruptcy Judge

  
\_\_\_\_\_  
John A. Rossmey  
Bankruptcy Judge

## Rule 1006-1

### Waiver of Filing Fee

~~An applicant seeking waiver of the filing fee, pursuant to Bankruptcy Rule 1006(c) and 28 U.S.C. 1930, shall give notice and an opportunity for hearing, at the time the application is filed, to the chapter 7 trustee in accordance with LBR 2002-1. Objections~~ *to an application to waive the Chapter 7 filing fee* shall be filed no later than seven (7) days following the conclusion of the meeting of creditors. ~~The proposed order shall be filed in accordance with LBR 9013-1(e).~~ *The court will enter an order or set the matter for hearing.*

#### Related Provisions

FRBP 1006	Filing Fee
28 USC 1930	Bankruptcy Fees

#### LBR 1006-1

~~NOVEMBER 17, 2009~~ *August 1, 2011*

## Rule 1017-3

### Conversion or Dismissal of Chapter 11 Cases

#### (a) Notice Requirement

A party in interest desiring that a Chapter 11 case be converted or dismissed pursuant to § 1112 (b) of the Code shall do so by motion and give twenty-one (21) days notice and hearing to the debtor or debtor in possession, the attorney for the debtor or the debtor in possession, the trustee if one is appointed, the United States trustee and the Master Mailing List (MML) in accordance with LBR 2002-1.

#### (b) Obtaining Hearing Date

(1) Prior to filing the motion, the moving party shall obtain a hearing date and time pursuant to LBR 9073-1(a).

(2) *Failure to obtain a hearing date prior to the filing of the motion in accordance with (b)(1) above waives the requirement for a hearing within 30 days pursuant to § 1112 (b)(3) of the Code.*

#### (c) Information Required in Motion and Notice

In addition to the information required by LBR 2002-1(a), the notice and motion shall also contain a detailed statement as to the cause that forms the basis of the motion and the time and place of the hearing of the motion.

#### Related Provisions:

FRBP 1017	Dismissal or Conversion of Case; Suspension
FRBP 2002(a)	Twenty- <i>one</i> day Notices to Parties in Interest
LBR 1017-1	Conversion or Dismissal of Joint Cases
LBR 1017-2	Conversion of Chapter 11 Case to Chapter 12 or Chapter 13 Case
LBR 1017-4	Dividing of Joint Cases
LBR 2001-1	Notice to Creditors and Other Interested Parties
LBR 9073-1	Hearings
11 USC 1112	Conversion and Dismissal

#### LBR 1017-3

~~DECEMBER 1, 2009~~ *August 1, 2011*

## **Rule 2082-1**

### **Chapter 12 - General**

#### **(a) Applicability**

This rule applies only to cases under Chapter 12 of the Bankruptcy Code.

#### **(b) Tax Returns**

The debtor shall provide to the trustee, and any creditor who requests, at least seven (7) days before the meeting of creditors, a copy of federal income tax returns filed for the three (3) years prior to the year in which the petition is filed together with all schedules thereto.

#### **(c) Debtor Eligibility Challenges**

Challenges to the eligibility of the debtor should be initiated at the earliest possible time in the case. Such challenges may be made by fourteen (14) days notice and hearing to the Master Mailing List pursuant to LBR 2002-1.

#### **(d) Funds of the Estate**

- (1) The debtor shall open a new bank account immediately upon filing a case under Chapter 12. The bank account shall be in the name of the debtor as "CHAPTER 12 DEBTOR". The account shall be separate from any account used by the debtor prior to filing of the Chapter 12 case. All amounts from the debtor's previous bank accounts shall be transferred to the new account. All receipts, including cash, after filing the case shall be deposited into the new account. The debtor shall file with the Clerk, the Chapter 12 trustee, and the United States trustee information as to the identity and location of the debtor's bank and the new account number.
- (2) All bills shall be paid by check written to a named payee. Checks written to the debtor may only be for the payment of incidental family or household expenses.

#### **(e) Compensation of Attorney for Debtor**

- (1) Requests for Compensation to be paid from the estate shall be made pursuant to FRBP 2016(a) and LBR 2016.
- (2) A copy of the Attorney Statement of Compensation, and any amendments thereto, required to be filed by § 329 of the Code and FRBP 2016(b), shall be promptly served on the United States trustee and the Chapter 12 trustee.

**(f) Monthly Operating Statement**

- (1) The debtor shall file and serve upon the Chapter 12 trustee a monthly statement of the estate's cash receipts and disbursements. The first monthly statement shall be filed within fifteen (15) days of the close of the month during which the case was filed. A monthly statement shall be filed within fifteen (15) days of the close of each month thereafter until the plan is completed or the case is converted or dismissed. A copy of the bank statement for the corresponding month shall be attached to the monthly statement.
- (2) The monthly statement shall itemize each receipt according to the type and quantity of product sold. Disbursements relating to farming operations shall be similarly itemized. Disbursements for household and family living expenses shall not be itemized, but shall be shown as a single, lump sum amount. Disbursements made to an attorney shall be separately stated and itemized.
- (3) The monthly statement shall include a certification that all taxes due since the filing of the case have been paid or deposited. The amount paid or deposited during the month, the date of payment or deposit, and the taxing agency paid or the place the tax was deposited shall be indicated in the monthly statement.
- (4) The debtor shall keep a copy of all receipts, bills and invoices for all purchases or payments on behalf of the farming operation.
- (5) The Chapter 12 trustee or any party in interest may present, upon seven (7) days notice and hearing, an order to dismiss if the debtor becomes delinquent in filing any monthly statement.

**(g) Valuation of Security, Determination of Extent of Lien, and Lien Avoidance**

- (1) Valuation of claims secured by a lien on property in which the estate has an interest shall be by a separate motion pursuant to LBR 3012-1. The order valuing the claim voids the lien to the extent of the unsecured portion of the claim pursuant to § 506(d) of the Code. In the event of dismissal of the case prior to discharge, this voided lien will be reinstated pursuant to § 349(b)(1)(C) of the Code unless otherwise ordered.
- (2) All actions to determine the validity, priority or, other than (1) above, the extent of a lien, shall be made by adversary proceeding, however, such relief may also be sought in an objection to allowance of claim pursuant to LBR 3007-1.
- (3) Actions to avoid judicial or non-possessory non-purchase money security interests under § 522(f) of the Code shall be by separate motion pursuant to LBR 4003-2.

**(h) Motion For Valuation Hearing**

- (1) If the debtor intends to treat any secured creditor as other than fully secured, the debtor shall file a motion to value the property claimed as security for the claim. This motion and notice thereof shall be filed no later than thirty (30) days from the date of filing the petition initiating the Chapter 12 case, or upon the filing of the plan, whichever is sooner. Service on the Master Mailing List shall be initiated at the same time the motion is filed.
- (2) Written objections for this motion shall be filed and served on the debtor within fourteen (14) days from the date of filing the notice. The objection shall state the specific grounds upon which it is based. Hearing on these objections will be held at the valuation hearing. An entity which fails to object to the motion to value may not participate at the valuation hearing.
- (3) The debtor, any objecting party, or the trustee may request that a status conference be conducted in the case at any time after the expiration of the time for objection to the motion to value. The status conference will be conducted by telephone upon seven (7) days notice to the debtor, all parties who have filed objections, and the Chapter 12 trustee.
- (4) The valuation hearing shall be scheduled ninety (90) to one hundred five (105) days from the filing of the petition initiating the case. Notice of this hearing shall be included with the notice of the meeting of creditors.
- (5) At least ten (10) days prior to the valuation hearing all parties participating in the hearing shall exchange and deliver to the appropriate chambers a list of witnesses expected to testify at the hearing, a summary of the expected testimony, copies of the appraisals to be introduced at the hearing, and a list identifying the comparable sales information to be relied upon in supporting the valuation. Each appraisal submitted shall identify the date of the appraisal and the name and credentials of the appraiser. Failure to comply with this rule may result in the imposition of sanctions.
- (6) The Court may limit, on its own motion or at the request of a party, introduction of evidence on direct examination by affidavit only, provided, however, that said affiant be present at the time of hearing and available for cross examination.
- (7) The moving party shall immediately notify the Court of the settlement of any valuation disputes prior to the valuation hearing and shall place into the record at that hearing the details of any such settlement.

**(i) The Plan**

**(1) Filing**

- (A) A plan shall be filed within ninety (90) days of the filing of the petition initiating the case. An extension of time to file the plan may be allowed if an application is made prior to the expiration of the ninety (90) days from the filing of the petition. The application shall be supported by an affidavit or unsworn declaration under penalty of perjury which clearly sets forth the basis for the extension and establishes good cause for the request. The application may be made ex parte. A copy of the order of extension shall be served upon the Master Mailing List as soon as practicable by the debtor.
- (B) Simultaneous with the filing of the plan the debtor shall serve upon the Master Mailing List a copy of the plan, notice of the time to file objections, and notice of the hearing on confirmation.

**(2) Objections**

Objection to the confirmation of the plan shall be made within fourteen (14) days of the mailing of the notice of the filing of the plan, shall include the specific basis for the objection of the plan, and shall be filed with the Court and served on the debtor, the debtor's attorney, and the Chapter 12 trustee. A party who has made an objection and who fails to appear at the hearing on confirmation or at any other hearing scheduled on the objection may be deemed to have waived such objection.

**(3) Plans Filed Within Sixty (60) Days - Status Conference**

If a plan is filed within sixty (60) days of the filing of the petition initiating the case, the Court will conduct a status conference as soon as practical after the expiration of the time for objections to the plan. The status conference will be conducted by telephone conference upon five (5) days notice to the debtor, all parties who have filed objections and the Chapter 12 trustee. Among the matters to be discussed at this status conference will be possible revision of the hearing schedule in the case in light of the early filing of the plan.

**(4) Contents of the Plan**

The plan shall meet the requirements of § 1222 of the Code and shall also contain the following information:

- (A) A schedule showing the dates, amounts, and payees of all payments to be made by the debtor and the payments to be made through the office of the Chapter 12 trustee;

- (B) A cash flow budget for the current crop year and for all future crop years for the life of the plan. The cash flow budget shall describe the crops intended to be grown, the farm products intended to be produced, and the projected gross income expected to be received for each crop or product. Assumptions upon which the cash flow projections are based with historical or other data justifying such assumptions shall be included. Operating expenses and loan payments shall be detailed in the budget. Living expenses of the debtor and the debtor's family shall be listed as a lump sum and shall not be described in greater detail;
- (C) Projected administrative expenses, including attorney fees;
- (D) The probable tax consequences to the debtor resulting from the plan;
- (E) A statement, with detailed information, specifying the need, if any, for the plan payments to be made over a period longer than three (3) years; and
- (F) A liquidation analysis.

**(j) Trustee's Confirmation Summary**

The Chapter 12 trustee shall file a confirmation summary no less than seven (7) days prior to the date set for the confirmation hearing. At the same time a copy shall be served on the debtor, the debtor's attorney, and any party objecting to the plan. The confirmation summary shall make a recommendation as to confirmation and shall comment on each of the following:

- (1) The debtor's eligibility for relief under Chapter 12;
- (2) The liquidation statement, the cash flow budget, and proposed order confirming the plan;
- (3) Objections to the confirmation of the plan;
- (4) The status of any valuation disputes;
- (5) The feasibility of the plan;
- (6) The validity of the secured claims; and
- (7) The appropriateness of attorney fees disclosed by the Attorney Statement of Compensation and of the total attorney fees estimated to be paid either as a cost of administration or directly by the debtor.

**(k) Hearing on Confirmation**

**LBR 2082-1**

~~DECEMBER 1, 2009~~ **August 1, 2011**



- (1) The confirmation hearing shall be scheduled one hundred twenty (120) to one hundred thirty-five (135) days from the filing of the petition. Notice thereof shall be given with the notice of the meeting of creditors and at the time the plan is filed.
- (2) Objections to confirmation shall be heard at the confirmation hearing. The Court will require production of evidence supporting confirmation of the plan even if no objections are before the Court. This evidence will include, but is not limited to, proof of eligibility for relief under Chapter 12, a liquidation analysis supporting the assertion that the unsecured claims will not receive less than they would receive in a Chapter 7 liquidation, and projections of future operations supporting the contention that the plan is feasible. If no objection is before the Court, the Court may determine, without receiving additional evidence, that the plan has been proposed in good faith and not by any means forbidden by law. If no objection is before the Court and the debtor requests, evidence supporting confirmation of a plan may be submitted by affidavit and the confirmation hearing conducted by telephone conference; provided, however, in such a case that the debtor must participate in such phone conference and be available under oath to answer such questions as the Court may have relating to confirmation.

**(l) Preconfirmation Modification of the Plan**

If, in connection with the confirmation hearing, parties modify the plan as an accommodation or settlement, the Court may conditionally approve the modified plan, adjourn the hearing on confirmation, and order notice of the modification pursuant to § 1229(b) of the Code reserving the signing of the order of confirmation until the time for objections to modification has passed without objection.

**(m) Postconfirmation Modification of the Plan**

- (1) A party requesting modification of the plan after confirmation shall give thirty (30) days notice and an opportunity to be heard to the debtor, all creditors, the Chapter 12 trustee, and all other parties on the Master Mailing List.
- (2) Once the plan has been modified as above, without objection, the proponent of the modification shall forthwith serve on the Chapter 12 trustee a copy of the modification together with a certificate stating that:
  - (A) The modification has been filed with the Clerk;
  - (B) Notice has been given in accordance with this rule; and
  - (C) No objections have been filed or served. If the plan is modified after objection and Court hearing, the proponent of the modification shall serve a copy of the modification and order approving the modification on the Chapter 12 trustee.

- (3) If a modified plan provides for the payment of claims not listed on the original schedules, notice of the modification shall be given to the additional creditors.
- (4) The Chapter 12 trustee may pay postpetition claims only if the plan is modified as above and the postpetition creditor affirmatively agrees in writing to payment under the plan.

**(n) Dismissal of Case by Debtor**

Absent an order to the contrary, a debtor desiring to dismiss the case shall give notice to the Master Mailing List in accordance with LBR 2002–1.

**(o) *Domestic Support Obligation Certificate***

*Upon completion of all payments by the debtor under the plan, each debtor shall file a Domestic Support Obligation Certificate.*

**(p) *Discharge of Debtor***

*Upon completion of all payments under the plan, the debtor(s) shall file a motion for entry of discharge on the prescribed local form and provide ten (10) days notice to the Master Mailing List or file a written request to waive discharge.*

## Related Provisions

FRBP 1017(d) (f)	Procedure for <i>Dismissal</i> , Conversion, or <del>Dismissal</del> <i>Suspension</i>
FRBP 2002	Notices <i>to Creditors, Equity Security Holders, Administrators in Foreign Proceedings, Persons Against Whom Provisional Relief is Sought in Ancillary and Other Cross-Border Cases, United States, and United States Trustee</i>
FRBP 2015	Duty to <i>Keep Records, Make Reports, and Give Notice of Case or Change in Status</i>
FRBP 2016	Compensation <del>of Attorney</del> <i>for Services Rendered and Reimbursement of Expenses</i>
FRBP 3012	Valuation of Security
FRBP 3015	Filing, <i>Objection to Confirmation, and Modification of a Plan in a Chapter 12 Family Farmer's Debt Adjustment or a Chapter 13 Individual's Debt Adjustment Case</i>
FRBP 3019	Modification of Plan
FRBP 3020	Confirmation of Plan
FRBP 9013	Motions: Form and Service
11 USC 329	Debtor's Transactions with Attorneys
11 USC 349	Effect of Dismissal
11 USC 704(8a)	Duties of Trustee
11 USC 1106(a)	Duties of Trustee <i>and Examiner</i>
11 USC 1203	Rights and Powers of Debtor
11 USC 1204	Removal of Debtor as Debtor in Possession
11 USC 1221	Filing of Plan
11 USC 1222	Contents of Plan
11 USC 1223	Modification of Plan Before Confirmation
11 USC 1224	Confirmation Hearing
11 USC 1225	Confirmation of Plan
<i>11 USC 1228</i>	<i>Discharge</i>
11 USC 1229	Modification of Plan After Confirmation

**LBR 2082-1**

~~DECEMBER 1, 2009~~ *August 1, 2011*

## **Rule 3001-1**

### **Claims & Equity Security Interests – General**

#### **(a) Post Petition Claims**

A claimant who files a proof of claim for a claim against the debtor that arose after the date of the order of relief shall serve a copy of the proof of claim on the debtor's attorney or debtor, if unrepresented.

#### **(b) Tardily Filed Proof of Claim**

A claimant who files a proof of claim after expiration of the time fixed for the filing of proofs of claim shall serve a copy thereof on the debtor's attorney or debtor, if unrepresented.

#### **(c) ~~Proof of Claim—Supporting Information~~**

##### **~~(1) Claim Based on a Writing~~**

~~When a claim is based on an open end or revolving consumer credit agreement, the last account statement sent to the debtor prior to the filing of the petition shall also be filed with the proof of claim.—~~

##### **~~(2) Additional Requirement in an Individual Debtor Case; Sanctions for Failure to Comply.—~~**

~~In a case in which the debtor is an individual:~~

- ~~(A) If, in addition to its principal amount, a claim includes interest, fees, expenses, or other charges incurred before the petition was filed, an itemized statement of the interest, fees, expenses, or charges shall be filed with the proof of claim.—~~
- ~~(B) If a security interest is claimed in property of the debtor, the proof of claim shall include a statement of the amount necessary to cure any default as of the date of the petition.—~~
- ~~(C) If a security interest is claimed in property that is the debtor's principal residence and an escrow account has been established in connection with the claim, the proof of claim shall be accompanied by an escrow account statement prepared as of the date the petition was filed and in a form consistent with applicable nonbankruptcy law.—~~
- ~~(D) If the holder of a claim fails to provide any information required by this subdivision (c), the holder shall be precluded from presenting the omitted information, in any form, as evidence in any hearing or submission in any~~

~~contested matter or adversary proceeding in the case, unless the court determines that the failure was substantially justified or is harmless. In addition to or in lieu of this sanction, the court may, after notice and hearing, award other appropriate relief, including reasonable expenses and attorney's fees caused by the failure.~~

**(d) Claims in Chapter 11**

- ~~(1)~~<sup>a</sup> In a Chapter 11 case, any creditor or equity security holder whose claim or interest is not scheduled or is scheduled as disputed, contingent, or unliquidated shall file a proof of claim or interest within ninety (90) days after the first date set for the meeting of creditors.
- ~~(2)~~<sup>b</sup> Claims “deemed filed” in a Chapter 11 case pursuant to § 1111(a) of the Code shall be deemed filed only so long as the case remains in Chapter 11. If the Chapter 11 case is converted, an actual proof of claim must be filed.

## Rule 3002-1

### Notice of Payment Changes

*Abrogated.*

#### ~~(a) Notice of Payment Changes~~

~~In a chapter 13 case, if a claim secured by a security interest in the debtor's principal residence is provided for under the debtor's plan pursuant to § 1322(b)(5) of the Code, the holder of the claim shall file and serve on the debtor, debtor's counsel, and the trustee notice of any change in the payment amount, including any change that results from an interest rate or escrow account adjustment, no later than 30 days before a payment at a new amount is due.~~

#### ~~(b) Form and Content~~

~~A notice filed and served pursuant to subdivision (a) of this rule shall: (1) conform substantially to the form of notice under applicable nonbankruptcy law and the underlying agreement that would be given if the debtor were not a debtor in bankruptcy, (2) be filed as a supplement to the holder's proof of claim, and (3) not be subject to Rule 3001(f).~~

#### ~~(c) Notice of Fees, Expenses, and Charges~~

~~In a chapter 13 case, if a claim secured by a security interest in the debtor's principal residence is provided for under the debtor's plan pursuant to § 1322(b)(5) of the Code, the holder of the claim shall file and serve on the debtor, debtor's counsel, and the trustee a notice that itemizes all fees, expenses, or charges incurred in connection with the claim after the bankruptcy case was filed, and that the holder asserts are recoverable against the debtor or against the debtor's principal residence. The notice shall be filed as a supplement to the holder's proof of claim and served no later than 180 days after the date when the fees, expenses, or charges are incurred. The notice shall not be subject to Rule 3001(f). On motion of the debtor or trustee filed no later than one year after service of the notice, the court shall, after notice and hearing, determine whether payment of the fees, expenses, or charges is required by the underlying agreement and applicable nonbankruptcy law to cure a default or maintain payments in accordance with § 1322(b)(5) of the Code.~~

#### ~~(d) Notice of Final Cure Payment~~

~~No later than 30 days after making final payment of any cure amount on a claim secured by a security interest in the debtor's principal residence, the trustee in a chapter 13 case shall file and serve upon the holder of the claim, the debtor, and debtor's counsel a notice stating that the amount required to cure the default has been paid in full. If the debtor contends that final cure payment has been made and the trustee does not timely file and serve the notice required by this subdivision, the debtor may file and serve upon the holder of the claim and the trustee a notice stating that the amount required to cure the default has been paid in full.~~

LBR 3002-1

~~DECEMBER 1, 2009~~ *December 1, 2011*

**~~(e) Response to Notice of Final Cure Payment~~**

~~No later than 21 days after service of the notice under subdivision (d) of this rule, the holder of a claim secured by a security interest in the debtor's principal residence shall file and serve on the debtor, debtor's counsel, and the trustee a statement indicating (1) whether it agrees that the debtor has paid in full the amount required to cure the default, and (2) whether, consistent with § 1322(b)(5) of the Code, the debtor is otherwise current on all payments. If applicable, the statement shall itemize any required cure or postpetition amounts that the holder contends remain unpaid as of the date of the statement. The statement shall be filed as a supplement to the holder's proof of claim and shall not be subject to Rule 3001(f).~~

**~~(f) Motion and Hearing~~**

~~On motion of the debtor or trustee filed no later than 21 days after service of the statement under subdivision (e) of this rule, the court shall, after notice and hearing, determine whether the debtor has cured the default and paid all required postpetition amounts in full.~~

**~~(g) Failure to Notify~~**

~~If the holder of a claim secured by a security interest in the debtor's principal residence fails to provide any information required by subdivision (a), (c), or (e) of this rule, the holder shall be precluded from presenting the omitted information, in any form, as evidence in any hearing or submission in any contested matter or adversary proceeding in the case, unless the court determines that the failure was substantially justified or is harmless. In addition to or in lieu of this sanction, the court may, after notice and hearing, award other appropriate relief, including reasonable expenses and attorney's fees caused by the failure.~~

## Rule 4001-1

### Automatic Stay

#### (a) Relief From Automatic Stay

##### (1) Notice

##### (A) As to Property of the Estate

A party in interest desiring relief from the automatic stay of an act against property of the estate shall file a motion and give fourteen (14) days notice to ~~all entities on the Master Mailing List~~ in accordance with LBR 2002-1 *to the debtor(s), attorney for the debtor(s), trustee, United States Trustee, those requiring notice under FRBP 2002(i) and FRBP 4001, and any other party known to movant claiming an interest in the subject property.* ~~The notice shall describe the property or interest involved, including a statement as to its fair market value and any encumbrances thereon.~~

##### (B) As to Other Acts

A party in interest desiring relief from the automatic stay of an act other than against property of the estate shall file a motion and give fourteen (14) days notice to the debtor and debtor's attorney in accordance with LBR 2002-1.

##### (C) *Content of Notice*

*The notice and motion shall describe the property or interest involved, including a statement as to its fair market value and encumbrances thereon.*

##### (~~C~~D) General Provision

The date of the request shall be the date that a motion requesting a modification to the automatic stay is filed along with the certificate required by LBR 2002-1(b)(~~3~~4).

##### (2) When an Objection is Made

(A) If an objection is timely filed and served, the party desiring relief from the stay shall obtain a hearing date and time from the court's website and shall notify the objecting party of the date of the hearing.

(B) The preliminary hearing will be by telephonic conference and based on affidavits only, but may be supported by written memoranda.



(C) Duty to Confer

The moving party has a duty to confer with an objecting party for the purpose of attempting to resolve the differences between the parties. ~~This duty to confer shall be satisfied prior to the confirming of the hearing.~~

(D) Timing of Filing Affidavits and Supporting Memoranda

- (i) Notwithstanding LBR 5005-1(c), the moving party shall file and serve affidavits in support of request for modification of stay together with any memoranda of authority at least seven (7) days before the preliminary hearing.
- (ii) The opposing party shall file and serve responsive affidavits and opposing memoranda of authority at least seven (7) days before the preliminary hearing.
- (iii) Notwithstanding LBR 5005-1(c), a document intended to be considered by the Court in connection with a scheduled hearing or a request for modification of stay shall be served and filed in accordance with subparagraphs (i) and (ii) above. ~~and a copy shall be delivered to the chambers of the Bankruptcy Judge if the document has not been filed at least seven (7) days prior to the hearing.~~

(E) Waiver

Failure to follow these procedures by the moving party will be deemed to be a waiver of the automatic lifting provisions of § 362(e) of the Code and consent to the continuation of the automatic stay pending the conclusion of the final hearing.

**(b) Confirmation That No Stay is in Effect, Continuation or For Reimposition of Stay**

- (1) A party in interest desiring an order confirming that no stay is in effect pursuant to § 362(c)(4)(A)(ii) of the Code, shall file a motion and shall give fourteen (14) days notice and hearing to the Master Mailing List in accordance with LBR 2002-1.
- (2) A party in interest desiring that the stay continue in effect pursuant to § 362(c)(3)(B) of the Code shall file a motion and give fourteen (14) days notice and hearing to the Master Mailing List in accordance with LBR 2002-1.

The motion shall be filed no later than seven (7) days following the filing of the petition for relief.

The date and time of the hearing shall be included in the notice and shall be within thirty (30) days of the filing of the petition for relief.

- (3) A party in interest desiring the automatic stay to take effect pursuant to § 362(c)(4)(B) of the Code shall file a motion and give fourteen (14) days notice and hearing to the Master Mailing List in accordance with LBR 2002-1.

**(c) Proof of Interest**

A party desiring relief from the stay shall provide to the trustee or debtor in possession, with the notice, copies of documents evidencing the interest of the requesting party, and the perfection of that interest, if appropriate.

**(d) Stipulation**

A stipulation of the debtor allowing relief from the stay is effective only as to acts against the debtor or the debtor's property. A stipulation of the trustee or debtor in possession allowing relief from the stay is effective only after notice has been given to all entities on the Master Mailing List in accordance with subparagraph (a)(1) above.

**(e) *Combining* ~~Non-combining~~ of Motions**

- (1) A motion for relief from the automatic stay or adequate protection shall not be combined with any other motion except a motion for abandonment or for relief from the co-debtor stay.
- (2) *If motions are combined, each request shall be clearly identified in the caption and in the body of the pleading.*

**(f) Where No Objection is Made**

If no objection is timely filed and served, the party desiring relief from the stay may present ex parte a proposed order in accordance with LBR 9013-1.

## Related Provisions

FRBP 4001	Relief from <i>Automatic Stay; Prohibiting or Conditioning the Use, Sale or Lease of Property; and Use of Cash Collateral; Obtaining Credit; Agreements</i>
FRBP 9006(†)	<i>Computing and Extending</i> Time
LBR 2002-1 LBR 9073-1	Notice to Creditors <del>and</del> & Other Interested Parties Hearings
11 USC 362	Automatic Stay
28 USC 1930 (b)	Bankruptcy Court Fee Schedule

**LBR 4001-1**

~~DECEMBER 1, 2009~~ *August 1, 2011*

## Rule 4001-3

### Relief From ~~Co-Debtor~~ *Codebtor* Stay

#### (a) Notice

- (1) A party in interest desiring relief from the codebtor stay shall give twenty-one (21) days notice to the debtor and codebtor in accordance with LBR 2002-1.
- (2) Service on the debtor and codebtor shall be in accordance with FRBP 9014.
- (3) The notice shall state:
  - (A) That as between the debtor and the codebtor, which party received the consideration for the claim held by the creditor; and
  - (B) Whether the plan filed by the debtor proposes to pay or not pay the claim; and
  - (C) Whether or not the creditor's interest would be irreparably harmed by the continuation of the stay; and
  - (D) That the stay may be terminated with respect to the party seeking relief unless the debtor or codebtor files and serves a written objection; *and*
  - (E) *Identity of codebtor by name.*

#### (b) Order

If an order is desired it shall be requested in accordance with LBR 9013-1(c).

#### Related Provisions

11 USC 1201	<del>Co-Debtor</del> Stay <i>of Action against Codebtor</i>
11 USC 1301	<del>Co-Debtor</del> Stay <i>of Action against Codebtor</i>
FRBP 7004	Process; Service of Summons, Complaint
FRBP 9014	Contested Matters
LBR 2002-1	Notice to Creditors <del>and</del> & Other Parties in Interest
LBR 4001-1(e)	Non-Combining of Motions
LBR 9013-1	Motions and Orders

#### LBR 4001-3

~~DECEMBER 1, 2009~~ *August 1, 2011*

## Rule 5005-3

### Electronic Filing

#### (a) Scope of Electronic Filing

- (1) The electronic filing of a document constitutes filing of the document for all purposes, including those of the Federal Rules of Bankruptcy Procedure and Local Rules.
- (2) Documents filed in paper will be converted into an electronic format.

#### (b) Official Record of the Court

The official record of the Court includes all documents filed electronically, filed in paper and converted to an electronically filed format, filed in paper and not converted to electronic format and text-only entries. Text-only entries are text contained in the docket entry and for which there is no separate electronically recorded image.

#### (c) Mandatory Electronic Filing

- (1) All attorneys, including but not limited to examiners, trustees, Office of the United States Trustee, Office of the United States Attorney and any other entity as the clerk deems appropriate are required to file documents electronically.
- (2) *Electronic filing privileges* Attorneys shall *only* be *granted to attorneys* admitted to practice in the United States District Court for the Eastern District of Washington ~~before an electronic filing registration will be accepted.~~ *Other entities are granted filing privileges for limited purposes.*

#### (d) Exception to File Documents Electronically

- (1) Pro se debtors, non-attorney entities that have filed fewer than 12 documents during the most recent 12 month period and entities that have been granted a waiver from filing electronically are excepted from filing a document electronically.
- (2) Documents filed under seal shall be in accordance with LBR 9018-1.

#### (e) Waiver of Requirement to File Documents Electronically

- (1) Any entity that is required to file documents electronically may request a waiver of that requirement by submitting a Request for Waiver From Electronic Filing on the prescribed form.
- (2) A separate waiver must be filed for each case or adversary proceeding for which a

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~~AUGUST 1, 2010~~ *August 1, 2011*

waiver is desired.

- (3) Any entity that is required to file documents electronically and that has not been granted a waiver or has an unresolved waiver request pending that files a document non-electronically is subject to sanctions as may be imposed by the Court or to having the document stricken unless, after notification, the document is promptly re-filed electronically or a waiver is requested.

**(f) Signatures**

- (1) All pleadings and other documents requiring signatures filed electronically shall either contain a scanned image of any signature(s) therein or,
  - (A) indicate the signature by putting “/s/ Jane Doe” on the signature line, or
  - (B) affixing an electronically produced signature to the document.
- (2) Documents Signed under Penalty of Perjury or Under Oath
  - (A) Where a scanned image of a signature conventionally signed under penalty of perjury is not displayed on the document electronically filed, the filing party shall file with the Court as a separate document a statement that the signature was witnessed and by whom.
  - (B) The filing party shall retain the document containing the written signature, or a copy made in the ordinary course of business as described in 28 USC § 1732, for a period of not less than five (5) years, the maximum allowable time to complete any appellate process, or the case or adversary proceeding is closed, whichever is later, and shall produce the document upon order of the Court, or a copy made in the regular course of business as described above.
- (3) The electronic filing of a document shall constitute the signature of that party for all purposes for which a signature is required in connection with proceedings before the Court, including FRBP 9011. Where an electronically produced signature is used, the electronically produced signature is the signature for all purposes, including orders of the Court.

Where a document is filed electronically that was initially signed conventionally, the submission of that document constitutes a signature and will have the same force and effect as a written signature for all purposes, including FRBP 9011.

The signature on a document filed in paper when converted to an electronic format by the Court, will likewise constitute a signature and will have the same force and effect as a written signature for all purposes, including FRBP 9011.

**(g) Court Retention of Records**

Where a document filed in paper is converted to an electronic format by the Court, the document will be retained only so long as required to ensure that the information has been transferred to the Court's database.

**(h) Technical Failures**

Appropriate relief under FRBP 9006 may be sought from the Court where an electronic filing is made untimely as the result of a technical failure of the Court.

**(i) Cases Filed in Error**

If a case is filed in error, or in duplicate, the filing party shall notify the clerk's office immediately.

**(j) Documents**

*(1) Combined motions shall be identified by selecting appropriate docket events.*

*(2) A single docket event shall not be used to file more than one document, except when otherwise allowed by local or national rules.*

**Related Provisions**

FRBP 5005	Filing and Transmittal of Papers
FRBP 9006	Computing and Extending Time

LBR 5005-1	Filing Requirements
LBR 9018-1	Secret, Confidential, Scandalous, or Defamatory Matter

28 USC 1732	Record made in regular course of business; photographic copies
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Administrative Procedures for Filing and Verifying Documents by Electronic Means

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## **Rule 9073-1**

### **Hearings**

#### **(a) Requests for Hearing**

A request for a hearing is made to the Clerk and should be made electronically by accessing the Court's website where possible, but may also be by telephone, in writing or in person. The requesting party shall provide to the Clerk the following information:

- (1) Identification of the case or adversary proceeding by name and number;
- (2) The names of all parties, the name, address and telephone number of their attorneys and that of any unrepresented party; and
- (3) A brief statement as to the nature of the hearing, estimated time required, the number of witnesses, if any, and preference as to a telephonic or courtroom hearing; and if the hearing is precipitated by notice and hearing;
  - (i) The date the notice was sent,
  - (ii) A statement as to whether or not objections were made, and
  - (iii) A statement as to whether or not the time for objections has expired.

#### **(b) Notice of Hearing**

- (1) As soon as possible after obtaining information concerning the scheduling of a hearing, but in no event later than seven (7) days prior to the hearing, the requesting party shall serve notice of the hearing on all parties to the hearing, as well as any party that has specifically requested notice of all hearings.
- (2) The notice of hearing shall include the date and time set, and whether the hearing will be by telephone or in court. If the hearing is by telephone, the "meet me" telephone number shall be given in the notice.
- (3) The party giving such notice shall promptly file an affidavit or statement under penalty of perjury of service that specifies when and to whom notice was served along with a copy of the notice, unless electronically linked.

#### **(c) Confirmation of Hearings**

~~The party requesting a hearing may be required to confirm with the appropriate chambers that the matter will be heard if so advised by the Court. Failure to confirm when so required may result in the striking of the hearing.~~



**(~~d~~e) Terms for Failure to Appear at Hearing**

The Court may impose terms against a party who fails to appear at a hearing when so required.

**(~~e~~d) Filing of Documents to be Considered at Hearings**

- (1) Except as provided in LBR 4001-2, an application or motion, supporting affidavits or statements under penalty of perjury shall be served and filed no later than seven (7) days prior to the hearing on an application or motion. An opposing party shall serve and file any objections, counter-affidavits or statements under penalty of perjury or other responding documents no later than three (3) days prior to the hearing on the application or motion.
- (2) A document intended to be considered by the Court in connection with a scheduled hearing shall be served and filed in accordance with subparagraph (1) above.

**(e) Cameras**

*Video and audio recording, transmitting, and broadcasting of federal court proceedings conducted in open court is permissible if it is authorized by the presiding judge and it is in compliance with the applicable statutes, procedural rules, and Judicial Conference and Ninth Circuit rules and guidelines.*

**Related Provisions**

FRBP 9006	<del>Service of Motion</del> <i>Computing and Extending Time</i>
LBR 2002-1	Notice to Creditors <del>and</del> & Other Interested Parties
LBR 4001-2	Cash Collateral
LBR 5005-1	Filing Papers & Requirements
<del>28 USC 152</del>	<del>Places of Holding Court</del>

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~~AUGUST 1, 2010~~ *August 1, 2011*